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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,225	01/08/2001	Miri Blank	BLANK 3	7300
1444	7590	05/19/2004	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			LUKTON, DAVID	
			ART UNIT	PAPER NUMBER
			1653	

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/743,225

Applicant(s)

BLANK ET AL.

Examiner

David Lukton

Art Unit

1653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached sheets.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: 8-10 and 24.

Claim(s) rejected: 11, 12, 22 and 23.

Claim(s) withdrawn from consideration: 25.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Advisory Action

The response filed 5/6/04 directs an amendment to the language of claim 22. However, this amendment will not be entered, as it raises new issues, and would require a new search. The response (filed 5/6/04) argues that modifying claim 22 to require the conjugate to be branched would not raise any new issues because (it is argued) the examiner had to “consider” whether or not the limitation of a “branched” conjugate was present. Certainly it is true that the examiner had to take this into account. However, none of the claims that were presented at the time of the final Office action (mailed 2/3/04) required any such branching.

Were the amendment (filed 5/6/04) to be entered, a new search would be required. It may be true that if a peptide of SEQ ID NO: 1, 4 or 7 were conjugated to a branched polymer, the resulting compound would be novel. However, the claims also permit 100% of the amino acids in the indicated peptides to be replaced with “non-natural” amino acids. If 100% of the amino acids in the peptides are replaced with “non-natural” amino acids, and if the “polymeric backbone” itself consists of “non-natural” amino acids, the result is a polyamide, and as such, the literature of polymer chemistry must also be considered. In fact, various branched polyamides are known to polymer chemists of ordinary skill, including branched nylon (see, e.g., the following US Patents for examples of such branched polyamide polymers: 4892927, 4690985, 4599400, 4599400, 3975350, 5859148 and 5408002).

Accordingly, the amendment filed 5/6/04 will not be entered. The rejection of claims 11, 12, 22-23 as being anticipated by Buchardt ('112) is maintained, as is the rejection of claims 11, 12, 22-23 as anticipated by Nametz ('880).



No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton whose telephone number is 571-272-0952. The examiner can normally be reached Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, can be reached at 571-272-0951. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

D. Lukton 5/17/04

Christopher S. F. Low
CHRISTOPHER S. F. LOW
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